

DECISION



29975
THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

FILE: B-216280

DATE: December 11, 1984

MATTER OF: Aero Tube and Connector Company

DIGEST:

1. The decision whether to waive a first article testing requirement is a matter within the contracting agency's discretion. Contracting officer's decision to waive first article testing will not be disturbed in the absence of a showing that it was arbitrary, capricious, or unreasonable.
2. Waiver of first article testing requirement is not shown to be arbitrary, capricious, or unreasonable where waiver was based upon fact that firm had received first article approval of similar items under previous government contracts.

Aero Tube and Connector Company (Aero) protests the Defense Logistics Agency's award of a contract to Hydraflow for production of 722 aluminum coupling tubes for use in aircraft and fuel vent systems pursuant to invitation for bids No. DLA700-84-B-0936. Aero contends that the contracting officer improperly waived the first article testing requirement on behalf of Hydraflow even though Hydraflow had never had first articles of this size coupling tubes approved under any prior government contracts. The waiver of the first article test requirement for Hydraflow resulted in Hydraflow being evaluated as the lowest priced bidder. Without the waiver for Hydraflow, Aero would have been evaluated as lowest priced and awarded the contract.

We deny the protest.

The invitation for bids specifically stated:

"First Article Testing may be waived. In the event of waiver for individual offers, such offers will be evaluated without considering the cost thereof. Offerors who, under a prior Government contract, have tested and secured approval of a first article similar to the item to be procured under this solicitation must furnish

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the following information with their offer . . ."
(Emphasis added.)

The decision whether to waive first article testing for a particular bidder is essentially an administrative one which we will not disturb unless it is clearly arbitrary, capricious, or unreasonable. See Baird Corporation, B-213233, Dec. 20, 1983, 84-1 C.P.D. ¶ 8; Kan-Du Tool & Instrument Corporation, B-183730, Feb. 23, 1976, 76-1 C.P.D. ¶ 121.

Furthermore, our Office has specifically upheld waiver of first article testing where waiver was based upon successful production of similar items under previous government contracts. See Baird Corporation, B-213233, supra; Wilson & Hayes, Inc., B-196089, Mar. 17, 1980, 80-1 C.P.D. ¶ 204; Kan-Du Tool & Instrument Corporation, B-183730, supra.

The record shows that the contracting officer waived first article testing on behalf of Hydraflow because Hydraflow had successfully completed first article tests for similar coupling tubes under three previous government contracts. The coupling tubes required under the present contract are to be 3 inches in diameter. Hydraflow had received successful first article test reports under prior government contracts for 1-, 2-, and 5-inch diameter coupling tubes. Moreover, the required performance tests for temperature and pressure are the same for all sizes of coupling tubes. The contracting officer concluded that, even though the wall thickness and weight of coupling tubes vary depending on the diameter of the coupling tubes, such changes do not require additional first article tests where the contractor has successfully tested coupling tubes with both larger and smaller diameters. In such circumstances, we cannot find that the contracting officer's decision to waive first article testing for Hydraflow was arbitrary, capricious, or unreasonable.

The protest therefore is denied.

for *Milton J. Arosar*
Comptroller General
of the United States